IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 5774 of 2005

SHYAM PRAKASH SHARMA
V/S
A.C.J. (S.D.),NO.2,JODHPUR & ORS.

Mr. NK CHANDAK for Mr. VIMAL MATHUR, appellant / petitioner.

Mr. KK SHAH & Mr. ANIL MEHTA, for the respondent.

Date of Order : 16.7.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties on the stay.

Vide impugned order dt. 8.9.2005 the plaintiff's evidence has been closed. It appears from the order-sheets that sufficient opportunities had already been granted in the past, so much so that even adjournments have been given on cost as last opportunity as well. However, in view of the fact that writ petition has been admitted, and further proceedings have been stayed vide order dt. 27.9.2005, I think it appropriate that interest of justice will be met by allowing the plaintiff petitioner one more opportunity to lead evidence on heavy cost to which the contesting respondent also has no serious objection.

In that view of the matter, the writ petition is disposed of with the direction that if the petitioner deposits a cost of Rs.20,000/- and produces all his witnesses on the next date of hearing which is already fixed in the learned trial court, and keeps all his witnesses present on that day, the learned trial court shall record their statement. It is also directed that it will be open to the petitioner to produce their affidavits on or before next date of hearing but then in that event the witnesses shall be kept ready on the next date, for being available for cross-examination by the respondent. If for any reason of the Court, the statements in chief or cross-examination is not recorded, or completed on the next date, the witnesses shall be bound down to appear on such further date as may be convenient to the Court. However, if the petitioner fails to pay the cost, or keep the witnesses present, the writ petition will automatically stand dismissed. The learned trial court is also directed to decide the suit most expeditiously.

(N P GUPTA),J.

/Sushil/